

***United States Court of Appeals
for the Second Circuit***



APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

75-4137

-----X
BHARATKUMAR BACHUBHAI DESAI,

Petitioner,

-v-

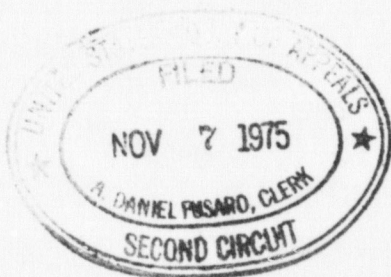
IMMIGRATION and NATURALIZATION
SERVICE,

Respondent.
-----X

PETITION FOR REVIEW OF
ADMINISTRATIVE AGENCY
ACTION

Docket No. 75-4137

APPENDIX



ABRAMS & ABRAMS
Attorneys for Petitioner
One Penn Plaza
New York, N. Y. 10001

PAGINATION AS IN ORIGINAL COPY

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ONLY COPY AVAILABLE

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

ORDER TO SHOW CAUSE and NOTICE OF HEARING

In Deportation Proceedings under Section 242 of the Immigration and Nationality Act

UNITED STATES OF AMERICA:

In the Matter of **DESAI Bharatkumar Bachubhai**

Respondent.

To: _____
(name)

File No. **A19 534 787**

275 Adelphi Street, Apt. 1, Brooklyn, New York

Address (number, street, city, state, and ZIP code)

UPON inquiry conducted by the Immigration and Naturalization Service, it is alleged that:

1. You are not a citizen or national of the United States;
2. You are a native of **India**
and a citizen of **India**;
3. You entered the United States at **San Francisco, California** on
or about **February 5, 1970**
(date);
4. At that time you were admitted as a nonimmigrant student
5. You have been authorized to remain in the United States until September 26, 1973.
6. You remained in the United States thereafter without authority.

AND on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

Section 241(a)(2) of the Immigration and Nationality Act, in that, after admission as a nonimmigrant under Sec. 101(a)(15) of said act you have remained in the United States for a longer time than permitted.

WHEREFORE, YOU ARE ORDERED to appear for hearing before a Special Inquiry Officer of the Immigration and Naturalization Service of the United States Department of Justice at _____
20 West Broadway, New York, New York - 14th Floor
on **January 24, 1974 (S)** at **8:45 A.m.**, and show cause why you should not be deported from the United States on the charge(s) set forth above.

Dated: **January 8, 1974**

Form I-221
(Rev. 3-30-67)

IMMIGRATION AND NATURALIZATION SERVICE

Maurice H. Deley
(signature and title of issuing officer)
Deputy District Director, N Y District

(City and State)

(over)

U.S. DEPARTMENT OF LABOR
MANPOWER ADMINISTRATION
P.O. BOX 8796

In reply refer to
3 MGES ES 2

Philadelphia, Pa. 19101

DATE: May 9, 1974

ABRAMS & ABRAMS
8 West 40th St.
New York, N.Y. 10018

ALIEN'S NAME AND OCCUPATION

Desai, Bharat B.
3-20-74 Manager, Import

EMPLOYER - India Phernalia

The Department of Labor has made a determination on your application for alien employment as required by the Immigration and Nationality Act, as amended. Final action has been taken as follows:

- ☒ 1. Form MA 7-50 has been certified and is enclosed with the supporting documents. All enclosures should be submitted to the Immigration and Naturalization Service District Office for consideration of alien's application for adjustment of status or with your petition (Form I-140).
- ☐ 2. Form MA 7-50 has been certified and returned to the Immigration and Naturalization Service for consideration with either a petition or request for adjustment of status.
- ☐ 3. Form MA 7-50 has been certified and forwarded to the Consulate at which the alien has indicated he will file a visa application. The Consular Officer will inform the alien of any additional documents to be submitted and steps to be taken in order to apply for an immigrant visa.
- ☐ 4. Form MA 7-50 has not been certified and is being returned. A certification cannot be issued as required by Section 212(a)(14) of the Immigration and Nationality Act, as amended, on the basis of information available for the following reasons:
- ☐ a. Available job market information will not warrant a certification of unavailability of workers in the U.S. who are able, willing, and qualified.
- ☐ b. The employment of aliens would have an adverse effect on wages and/or working conditions of U.S. workers similarly employed.

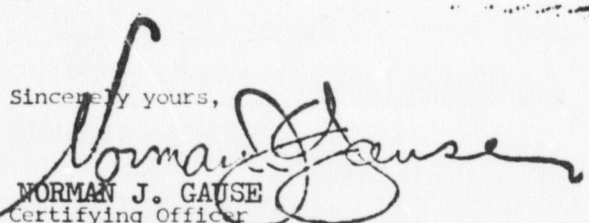
The wage offer of is below the prevailing rate of for this occupation in the proposed area of employment.

Prevailing wage was determined by

.....

Reason for Denial: (If additional space is needed, use reverse)

Sincerely yours,


NORMAN J. GAUSE
Certifying Officer

cc: State ES Agency

2

You may request a review of a denial of certification. A request for review of a denial may only be made in writing to the Assistant Regional Director for Manpower within 90 days of denial of certification and shall: (1) Clearly identify the particular certification determination for which review is sought; (2) set forth the particular grounds on which the request is based; and (3) include all documents which accompanied the denial of certification.

MA 7-145

U.S. DEPARTMENT OF LABOR
MANPOWER ADMINISTRATION

MA 7-50A

REPLACES FORM ES-575A

APPLICATION FOR ALIEN EMPLOYMENT CERTIFICATION
STATEMENT OF QUALIFICATIONS OF ALIEN

READ THIS NOTICE BEFORE COMPLETING FORMS

To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another so to do is a felony punishable by \$10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Any alien, prospective employer or any person acting on behalf of such alien or employer, who knowingly makes any misrepresentation concerning the alien, or his prospective employment including such matters as wages, hours, or the occupation in which an alien will be employed, or any person who falsely represents, in the execution of this form that he is offering the alien employment as the prospective employer of such alien, will be prosecuted to the fullest extent of the law.

FOR ADVICE CONCERNING REQUIREMENTS FOR ALIEN EMPLOYMENT CERTIFICATION: If alien is in the U.S., contact nearest office of Immigration and Naturalization Service. If alien is outside U.S., contact nearest U.S. Consulate.

IMPORTANT: READ ATTACHED INSTRUCTIONS BEFORE COMPLETING THIS FORM

Print legibly in ink or use a typewriter. If you need more space to fully answer any questions on this form, use a separate sheet. Identify each answer with the number of the corresponding question. Sign and date each sheet.

1. Family name in capital letters NAME OF ALIEN DESAI				First name Bharat		Middle name B.		2. ALIEN REGISTRATION NUMBER (if any)		3. TYPE OF VISA (if in U.S.) under deportation proceedings	
4. Number and street Apt. 4,				City or town 250 Carlton Avenue, Brooklyn, N. Y., U.S.A.		State and ZIP Code or Province		5. SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE		6. MARITAL STATUS <input type="checkbox"/> MARRIED <input checked="" type="checkbox"/> SINGLE	
7. ALIEN'S BIRTHDATE Month, day, year Sept. 9, 1951		8. BIRTHPLACE City or town Bombay		State or Province India		Country India		9. PRESENT NATIONALITY OR CITIZENSHIP (Country) Indian			
10. ADDRESS IN UNITED STATES WHERE ALIEN WILL RESIDE c/o India Phernalia, 21 Chestnut Street, Ambassador Bldg., Philadelphia, Pa.								11. AGES OF ALIEN'S UNMARRIED CHILDREN UNDER 21 YEARS OLD None			
12. NAME & ADDRESS OF PROSPECTIVE EMPLOYER IF ALIEN HAS JOB OFFER IN U.S. India Phernalia, 2383 Cottman Avenue, Philadelphia, Pa.								13. OCCUPATION IN WHICH ALIEN IS SEEKING WORK Manager			
14. "X" the appropriate box below and furnish the information required for the box marked											
<input type="checkbox"/> A. ALIEN WILL APPLY FOR A VISA ABROAD AT THE AMERICAN CONSULATE IN City in foreign country Foreign country											
<input checked="" type="checkbox"/> B. ALIEN IS IN THE UNITED STATES AND WILL APPLY FOR ADJUSTMENT OF STATUS TO THAT OF A LAWFUL PERMANENT RESIDENT IN THE OFFICE OF THE IMMIGRATION AND NATURALIZATION SERVICE AT City State Philadelphia, Pa.											
15. NAMES AND ADDRESSES OF SCHOOLS, COLLEGES AND UNIVERSITIES ATTENDED Include trade or vocational training facilities			FIELD OF STUDY		FROM Month Year		TO Month Year		DEGREES OR CERTIFICATES RECEIVED		
Elementary & High School			Elementary/Secondary		1957		1967				
Sinclair Community College, Dayton, Ohio			Business		1970		1972		A.A. in Business Management		

SPECIAL QUALIFICATIONS AND SKILLS

16. ADDITIONAL QUALIFICATIONS AND SKILLS ALIEN POSSESSES AND PROFICIENCY IN THE USE OF TOOLS, MACHINES OR EQUIPMENT WHICH WOULD HELP ESTABLISH IF ALIEN MEETS REQUIREMENTS FOR OCCUPATION IN ITEM 13

LIST LICENSES (Professional, Journeyman, etc.)

17. LIST DOCUMENTS ATTACHED WHICH ARE SUBMITTED AS EVIDENCE THAT ALIEN POSSESSES THE EDUCATION, TRAINING, EXPERIENCE AND ABILITIES REPRESENTED

ENDORSEMENTS

MAR 25 1974

O.T. & C

Make no entry
in this section—
for government
agency use only

18. EXPERIENCE. List all jobs held during past three (3) years. Also, list any other jobs related to the occupation for which the alien is seeking certification as indicated in Item 13.

NAME AND ADDRESS OF EMPLOYER

Bharat Enterprises, 57 Lohar Chawl, Bombay 2, India

NAME OF JOB

Clerk, later Manager

DATE STARTED
Month Year
Jan. 1967

DATE LEFT
Month Year
Jan. 1970

KIND OF BUSINESS

Exporters of Handicrafts

DESCRIBE IN DETAIL THE DUTIES PERFORMED, INCLUDING THE USE OF TOOLS, MACHINES, OR EQUIPMENT

NO. OF HOURS PER
WEEK 40

Started as clerk from 1967 to 1968, purchasing handicrafts, and clothing for export. Later became Manager and handled export documentation, customs clearances, Government regulations as well as conducting buying activities.

NAME AND ADDRESS OF EMPLOYER

NAME OF JOB

DATE STARTED
Month Year

DATE LEFT
Month Year

KIND OF BUSINESS

DESCRIBE IN DETAIL THE DUTIES PERFORMED, INCLUDING THE USE OF TOOLS, MACHINES, OR EQUIPMENT

NO. OF HOURS PER
WEEK

NAME AND ADDRESS OF EMPLOYER

NAME OF JOB

DATE STARTED
Month Year

DATE LEFT
Month Year

KIND OF BUSINESS

DESCRIBE IN DETAIL THE DUTIES PERFORMED, INCLUDING THE USE OF TOOLS, MACHINES, OR EQUIPMENT

NO. OF HOURS PER
WEEK

19. List parties who are or will be recipients of the amounts indicated, from or on behalf of alien, for placement and/or referral services provided in connection with this application for alien employment certification.

NAMES (Type or print)	ADDRESSES (No. & Street, City, State & ZIP Code)	AMOUNTS
		\$
		\$
		\$

20. DECLARATIONS

DECLARATION OF ALIEN: Under penalties of perjury, I declare that I have examined this application, supplements thereto, and accompanying documents, and to the best of my knowledge and belief, the information presented thereon is true, correct, and complete.

SIGNATURE

X Bharat Desai

DATE SIGNED

March 18, 1974

DECLARATION OF AGENT OF ALIEN (If prepared by, or if assistance in preparation is provided by person other than alien): I declare that the contents of this application, supplements thereto, and all accompanying documents are based on all information of which I have any knowledge.

SIGNATURE

F. Abrams

DATE SIGNED

March 18, 1974

NAME (Type or print)

ABRAMS & ABRAMS

ADDRESS (No. & Street, City, State and ZIP Code)

8 West 40th Street, New York, N. Y. 10018

U.S. DEPARTMENT OF LABOR
MANPOWER ADMINISTRATION

MA 7-50B

REPLACES FORM ES-575B

APPLICATION FOR ALIEN EMPLOYMENT CERTIFICATION

JOB OFFER FOR ALIEN EMPLOYMENT

READ THIS NOTICE BEFORE COMPLETING FORMS

To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Any alien, prospective employer or any person acting on behalf of such alien or employer, who knowingly makes any misrepresentation concerning the alien, or his prospective employment including such matters as wages, hours, or the occupation in which an alien will be employed, or any person who falsely represents, in the execution of this form that he is offering the alien employment as the prospective employer of such alien, will be prosecuted to the fullest extent of the law.

IMPORTANT: READ ATTACHED INSTRUCTIONS BEFORE COMPLETING THIS FORM

Print legibly in ink or use a typewriter. If you need more space to answer fully any questions on this form, use a separate sheet. Identify each answer with the number of the corresponding question. Sign and date each sheet.

IN SUPPORT OF THE APPLICATION FOR ADMISSION OF

1. NAME OF ALIEN If for temporary employment of more than one alien in same occupation, attach list of names and present addresses.

Family name in capital letters

First name

Middle name

Maiden name

DESAI

BHARAT

2. PRESENT ADDRESS OF ALIEN

Number and street

Apt. 4,

City and town

State & ZIP Code
or Province

Country

250 Carlton Avenue,

Brooklyn,

N.Y.

U.S.A.

3. TYPE OF VISA

(If in U.S.)

under
deportation
proceedings

NOTE: Do not employ a nonimmigrant alien who cannot show authorization to work stamped or endorsed on his form I-94, Arrival and Departure Record. Contact Immigration and Naturalization Service if in doubt. An alien who works without authorization is subject to deportation and his employer is subject to denial of certification.

THE FOLLOWING INFORMATION IS SUBMITTED AS EVIDENCE OF AN OFFER OF EMPLOYMENT

4. NAME OF EMPLOYER (Full name of organization)

India Phernalia

5. TELEPHONE (Area code and number)

(215) 331-1761

6. ADDRESS

Number and street

City or town

County

State

ZIP Code

2383 Cottman Ave., Philadelphia

Penn.

19149

7. ADDRESS WHERE ALIEN WILL WORK (If different from item 6)

8. SIZE OF ORGANIZATION

ANNUAL SALES OR
INCOME
65,000.TOTAL NO. OF EM-
PLOYEES 19. BRIEF NONTECHNICAL DESCRIPTION OF THE NATURE OF EMPLOYER'S BUSINESS OR
ACTIVITY

Indian Crafts, Imports, Gift Items

10. NO. OF EMPLOYEES
WHO PERFORM SAME
WORK AS ALIEN

None

11. NO. OF EMPLOYEES AT
PLACE WHERE ALIEN
WILL WORK

1

12. IF SEASONAL JOB, ENTER MONTHS THAT JOB
STARTS & ENDS

Complete items 13 and 14 only if job is temporary

FROM

TO

FROM

TO

13. EXACT DATES YOU EXPECT TO EMPLOY ALIEN(S)

14. NO. OF OPENINGS TO BE
FILLED BY ALIENS UNDER
THIS JOB OFFER15. WOULD YOU HIRE A QUALIFIED U.S.
WORKER IF AVAILABLE?☒ YES☐ NO

16. DESCRIBE EFFORTS YOU HAVE MADE TO FILL THE JOB

Called agencies, inquired in the trade.

17. DESCRIBE HOW YOU LEARNED THAT ALIEN NAMED ABOVE WAS AVAILABLE

Recommended by a friend

18. ALIEN NAMED ABOVE EMPLOYED BY ME

PREVIOUS CERTIFICATIONS RECEIVED (Permanent job offer only)

☐ CURRENTLY

DATE STARTED

19. NO. CERTIFICATIONS
RECEIVEDDATE OF
RECENT

MOST

20. NO. ALIENS HIRED

NO. STILL ON JOB

☐ PREVIOUSLY

DATE LEFT (If any)

None

None

ENDORSEMENTS

CERTIFICATION

Pursuant to the provisions of section 212(a)(1)(4) of the Immigration and Nationality Act as amended, I hereby certify that there are not sufficient U.S. workers available and the employment of the aliens will not adversely affect the wages and working conditions of workers in the U.S. similarly employed.

Make no entry
in this section—
for government
agency use only

5-9-74

(Date)

(Certifying Officer)

D.O.L. REGION III

21. DATE FORMS ARE RECEIVED AS ACCEPTABLE
FOR PROCESSING

L.O.

03-24-74

S.O.

3-22-74

L.O.

MAR 25 1974

N.O.

For Local ES Office Use Only

L.O. ADDRESS

JOB BANK OFFICE

1709 S. BROAD ST.

PHILADELPHIA, PA. 19148

22. IND. CODE

5999

23. OCC. TITLE

MANAGER, IMPORT

24. OCC. CODE

163.118

Items continued on reverse

Apr. 1970

25. NAME OF JOB OFFERED
Manager

26. IS THERE EITHER A LABOR DISPUTE EXISTING OR A LABOR CONTRACT BEING NEGOTIATED? ☐ YES ☒ NO

27. IF THE JOB IS UNIONIZED ☒ NUMBER OF LOCAL ☐ NAME CITY AND STATE

28. TOTAL HOURS PER WEEK BASIC 40 OVERTIME 29. RATE OF PAY (Per hour, week, etc.) BASIC 180. PER week OVERTIME PER ADDITIONS TO BASIC RATE OF PAY (Commission, piece rate, etc.)

30. DESCRIBE FULLY THE JOB TO BE PERFORMED (If alien is required to live at work, form MA 7-50C must also be submitted.)
DUTIES Will manage Indian store catering almost exclusively to large Indian and Pakistani population. Will purchase stock, run promotional campaigns, take inventory, help customers in making purchases or accept their suggestions (speaking to them in Gujarati). Should have good knowledge of Indian handicrafts, contacts for importing them, know how to order goods from India and have them shipped properly. Store imports, brass items, ivory items, saris and clothing, wood items, other typical craft items.

EQUIPMENT OPERATED None WORKING CONDITIONS Good

31. STATE IN DETAIL THE MINIMUM REQUIREMENTS FOR WORKER TO PERFORM SATISFACTORILY THE JOB DUTIES DESCRIBED ABOVE

EDUCATION (Enter number of years)			SPECIFY COLLEGE DEGREE REQUIRED	MAJOR FIELD OF STUDY
GRADE SCHOOL	HIGH SCHOOL	COLLEGE		
8	4			

TRAINING ☒ NUMBER OF YEARS OR MONTHS 2 years TYPE OF TRAINING (Specify vocational preparation, such as apprenticeship, trade school or other training required) Business School or Store Clerk in store handling this merchandise.

EXPERIENCE ☒ NUMBER OF YEARS OR MONTHS IN JOB BEING OFFERED 2 years OR NUMBER OF YEARS OR MONTHS IN RELATED OCCUPATION (Specify) two years Import/Export Manager handling this merchandise

32. SPECIFY ANY OTHER SPECIAL REQUIREMENTS Must speak Gujarati, since many of our customers only speak this language and no English; also to order goods from smaller producers in India. Must be familiar with typical Indian handicrafts and

33. OCCUPATIONAL TITLE OF PERSON WHO WILL BE ALIEN'S IMMEDIATE SUPERVISOR Owner 34. TYPE AND DEGREE OF SUPERVISION ALIEN WILL RECEIVE General gift items, knowing their prices & able to judge quality 35. NUMBER OF OTHER EMPLOYEES ALIEN WILL SUPERVISE 2-3

36. HAVE YOU FULLY INFORMED ALIEN OF JOB DUTIES, RATE OF PAY, AND TERMS OF YOUR JOB OFFER? ☒ YES ☐ NO

37. DECLARATIONS

DECLARATION OF EMPLOYER: Under penalties of perjury, I declare that I have examined this application, supplements thereto, and all accompanying documents, and to the best of my knowledge and belief the information presented thereon is true, correct and complete.

SIGNATURE *Lalit Shah* DATE SIGNED March 14, 1974

NAME (Type or print) LALIT SHAH TITLE Owner

DECLARATION OF AGENT OF EMPLOYER (If prepared by, or if assistance in preparation is provided by person other than employer): I declare that the contents of this application, supplements thereto, and all accompanying documents are based on all information of which I have any knowledge.

SIGNATURE *[Signature]* DATE SIGNED March 14, 1974

NAME (Type or print) ABRAMS & ABRAMS

ADDRESS (Number and Street, City, State and ZIP Code) 8 West, 40th Street, New York, NY 10018

APPLICATION FOR STATUS AS PERMANENT RESIDENT

Form Approved
O.M.B. No. 43-R0400

FEE STAMP

File No.

APPLICATION FOR THE BENEFITS OF SECTION:

- ☐ Sec. 203(a)(7) and Sec. 245, I&N Act ☐ Sec. 245
- ☐ Sec. 214(d), I&N Act ☐ Sec. 249 I&N Act
- ☐ Sec. 13, Act of 9/11/57

(DO NOT WRITE ABOVE THIS LINE.) (SEE INSTRUCTIONS BEFORE FILLING IN APPLICATION. IF YOU NEED MORE SPACE TO ANSWER FULLY ANY QUESTION ON THIS FORM, USE A SEPARATE SHEET AND IDENTIFY EACH ANSWER WITH THE NUMBER OF THE CORRESPONDING QUESTION. FILL IN WITH TYPEWRITER OR PRINT IN BLOCK LETTERS IN INK.)

1. I hereby apply for the status of a lawful permanent resident alien on the following basis: (Check box A, B, C, D, E, or F)

- A. ☐ As a refugee to whom an immigrant visa is immediately available (Section 203(a)(7) and Section 245, I&N Act).
- B. ☐ As a person who entered the U.S. with a visa issued to me as the fiancée or fiancé of a U.S. citizen whom I married within 90 days after my entry, or as a child of such fiancée or fiancé (Sec. 214(d), I&N Act).
- C. ☐ As a former government official, or as a member of the immediate family of such official (Section 13, Act of September 11, 1957).
- D. ☒ As a person to whom an immigrant visa is immediately available, other than one described above (Section 245, I&N Act).
- E. ☐ As a person who has resided in the United States continuously since prior to July 1, 1924 (Section 249, I&N Act).
- F. ☐ As a person who has resided in the United States continuously since a date on or after July 1, 1924, but before June 30, 1948 (Section 249, I&N Act).

2. My name is (Last in capital letters) (First Name) (Middle Name) DESAI BHARATKUMAR B.		3. Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
4. I reside in the United States at: (c/o) (No. and Street) (Apt. No.) (City) (State) (ZIP Code) C/O N. PATEL 332 TAYLOR ST. TRENTON N.J. 08603		5. Have you ever applied before for permanent resident status in the U.S.? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If "Yes", give the date and place of filing and final disposition.)
6. My alien registration number is A19 584 787	7. I am a citizen of (Country) INDIA	8. Date of Birth 9-9-51
9. Place of Birth (City or Town) (County, Province, or State) (Country) BOMBAY INDIA		
10. Name as appears on nonimmigrant document (Form I-94) DESAI BHARATKUMAR B.		
I last arrived in the United States at the port of (City and State) SAN FRANCISCO, CAL.		on (Month) (Day) (Year) 2-5-70
as a (visitor, student, crewman, parolee, etc.) STUDENT		by (Name of vessel or other means of travel) PAA
11. My nonimmigrant visa, number 000526 , was issued by the United States Consul at (City)(Country) BOMBAY, INDIA		my I-94 permit number is 1-29-70
12. I am <input checked="" type="checkbox"/> single <input type="checkbox"/> married <input type="checkbox"/> divorced <input type="checkbox"/> widowed		
13. I have been married NO times, including my present marriage, if now married. (If you are now married give the following:)		
a. Number of times my husband or wife has been married		b. Name of husband or wife (Wife give maiden name)
c. My husband or wife resides <input type="checkbox"/> with me <input type="checkbox"/> apart from me at Address (Apt. No.)(No. & Street)(Town or City)(Province or State)(Country)		
14. a. I have NO sons or daughters as follows: (Complete all columns as to each son or daughter; if living with you state "with me" in last column; otherwise give city and state or country of son's or daughter's residence).		
Name	Sex	Place of Birth
		Date of Birth
		Now living at
b. The following members of my family are also applying for permanent resident status: NONE		

15. I list below all organizations, societies, clubs, and associations, past or present, in which I have held membership in the United States or a foreign country, and the periods and places of such membership. (If you have never been a member of any organization, state "None".)

NONE

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Form I-485 (Rev. 11-1-73)

RECEIVED	TRANS. IN	RET'D-TRANS. OUT	COMPLETED

(Page 1)

16. I ☐ have ☒ have not been treated for a mental disorder, drug addiction or alcoholism. (If you have been, explain.)

17. I ☐ have ☒ have not been arrested, convicted or confined in a prison. (If you have been, explain.)

18. I ☐ have ☒ have not been the beneficiary of a pardon, amnesty, rehabilitation decree, other act of clemency or similar action. (If you have been, explain.)

19. APPLICANTS FOR STATUS AS PERMANENT RESIDENTS MUST ESTABLISH THAT THEY ARE ADMISSIBLE TO THE UNITED STATES. EXCEPT AS OTHERWISE PROVIDED BY LAW, ALIENS WITHIN ANY OF THE FOLLOWING CLASSES ARE NOT ADMISSIBLE TO THE UNITED STATES AND ARE THEREFORE INELIGIBLE FOR STATUS AS PERMANENT RESIDENTS:

Aliens who have committed or who have been convicted of a crime involving moral turpitude (does not include minor traffic violations); aliens who have been engaged in or who intend to engage in any commercialized sexual activity; aliens who are or at any time have been, anarchists, or members of or affiliated with any Communist or other totalitarian party, including any subdivision or affiliate thereof; aliens who have advocated or taught, either by personal utterance, or by means of any written or printed matter, or through affiliation with an organization, (i) opposition to organized government, (ii) the overthrow of government by force or violence, (iii) the assaulting or killing of government officials because of their official character, (iv) the unlawful destruction of property, (v) sabotage, or (vi) the doctrines of world communism, or the establishment of a totalitarian dictatorship in the United States; aliens who intend to engage in prejudicial activities or unlawful activities of a subversive nature; aliens who have been convicted of violation of any law or regulation relating to narcotic drugs or marihuana, or who have been illicit traffickers in narcotic drugs or marihuana; aliens who have been involved in assisting any other aliens to enter the United States in violation of law; aliens who have applied for exemption or discharge from training or service in the Armed Forces of the United States on the ground of alienage and who have been relieved or discharged from such training or service.

Do any of the foregoing classes apply to you? ☐ Yes ☒ No (If answer is Yes, explain)

20. (COMPLETE THIS BLOCK ONLY IF YOU CHECKED BOX "A", "B", "C", or "D" OF BLOCK 1)

APPLICANTS WHO CHECKED BOX "A" "B" "C" OR "D" OF BLOCK 1 (INCLUDING REFUGEES) IN ADDITION TO ESTABLISHING THAT THEY ARE NOT MEMBERS OF ANY OF THE INADMISSIBLE CLASSES DESCRIBED IN BLOCK 10 ABOVE MUST, EXCEPT AS OTHERWISE PROVIDED BY LAW, ALSO ESTABLISH THAT THEY ARE NOT WITHIN ANY OF THE FOLLOWING INADMISSIBLE CLASSES:

Aliens who are mentally retarded, insane, or have suffered one or more attacks of insanity; aliens afflicted with psychopathic personality, sexual deviation, mental defect, narcotic drug addiction, chronic alcoholism or any dangerous contagious disease; aliens who have a physical defect, disease or disability affecting their ability to earn a living; aliens who are paupers, professional beggars or vagrants; aliens who are polygamists or advocate polygamy; aliens who intend to perform skilled or unskilled labor and who have not been certified by the Secretary of Labor (see Instruction 10); aliens likely to become a public charge; aliens who have been excluded from the United States within the past year, or who at any time have been deported from the United States, or who at any time have been removed from the United States at Government expense; aliens who have procured or have attempted to procure a visa by fraud or misrepresentation; aliens who have departed from or remained outside the United States to avoid military service in time of war or national emergency; aliens who are former exchange visitors who are subject to but have not complied with the two year foreign residence requirement.

Do any of the foregoing classes apply to you? ☐ Yes ☒ No (If answer is Yes, explain)

21. I ☒ do ☐ do not intend to seek gainful employment in the United States. If you intend to seek gainful employment in the United States, state the occupation you intend to follow IMPORT MANAGER

22. (Complete this block only if you checked box A or D of block 1)

- ☐ a. I have a priority on the consular waiting list at the American Consulate at _____ as of _____ (City) _____ (Date)
- ☐ b. A visa petition according to me ☐ immediate relative ☐ preference status was approved by the district director at _____ on _____ (City and State) _____ (Date)
- ☐ c. A visa petition has not been approved in my behalf but I claim eligibility for preference status because ☐ my spouse ☐ my parent is the beneficiary of a visa petition approved by the district director at _____ (City and State) on _____ (Date)
- ☐ d. I am claiming preference status as a refugee under the proviso to Section 203 (a)(7) of the Act who has been continuously physically present in the United States for at least the past two years. (If you check this item, you must execute and attach Form I-590A to this application.)
- ☒ e. Other (Explain) *I have a nonpreference priority of 3/20/74 based on an approved labor certification.*

23. (Complete this block only if you checked Box E or F of Block 1)

A. I first arrived in the United States at (Port)

on (Date)

by means of (Name of vessel or other means of travel)

I ☐ was ☐ was not inspected by an immigration officer.

B. I entered the U.S. under the name (Name at time of entry)

and I was destined to (City and State)

I was coming to join (Name and relationship)

C. Since my first entry I ☐ have ☐ have not been absent from the United States. (If you have been absent, attach a separate statement listing the port, date and means of each departure from and return to the U. S.)

24. ☒ Completed Form G-325A (Biographic Information) is attached as part of this application.

☐ Completed Form G-325A (Biographic Information) is not attached as applicant is under 14 years of age.

25. IF YOUR NATIVE ALPHABET IS IN OTHER THAN ROMAN LETTERS, WRITE YOUR NAME IN YOUR NATIVE ALPHABET BELOW:

Signature of Applicant:

Date of Signature:

26. (Signature of person preparing form, if other than applicant.) I declare that this document was prepared by me at the request of the applicant and is based on all information on which I have any knowledge.

Address of person preparing form, if other than applicant

*ONE PENN PLAZA
NEW YORK NY 10001*

Occupation: *Attorney At Law*

Date: *5/5/74*

(Application not to be signed below until applicant appears before an officer of the Immigration and Naturalization Service for examination)

I, _____, do swear (affirm) that I know the contents of this application subscribed by me including the attached documents, that the same are true to the best of my knowledge, and that corrections numbered () to () were made by me or at my request, and that this application was signed by me with my full, true name:

(Complete and true signature of applicant)

Subscribed and sworn to before me by the above-named applicant at _____ on _____ (Month) (Day) (Year)

(Signature and title of officer)

(Page 3)

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
970 Broad Street
Newark, New Jersey 07102

Date: February 21, 1975

Franklin S. Abrams, Esquire
8 West 40th Street
New York, New York 10018

File A - 19 584 787/SIO

and

Nathan W. Gordon
Trial Attorney
Newark, New Jersey

MATTER OF
BHARATKUMAR BACHUBHAI DESAI

- ☐ Attached is a copy of the written decision of the Immigration Judge. This decision is final unless an appeal is taken to the Board of Immigration Appeals by returning to this office on or before _____ the enclosed copies of Form I-290A, Notice of Appeal, properly executed, together with a fee of twenty-five dollars (\$25.00). If you wish to submit a supporting brief it should also be returned on or before that date.
- ☒ Attached is an information copy of the oral decision of the Immigration Judge made on January 6, 1975
- ☒ Attached, as requested, is a transcript of the testimony of record, pages 1 to 26 _____ which is being loaned to you on condition that no copy thereof will be made, that it will be retained in your possession and control, and that it will be surrendered upon final disposition of the case or upon demand by the Service.
- ☐ You are advised that on _____ the Immigration Judge entered an order, which is final, granting the application for adjustment of status to that of a permanent resident under Section _____ of the Immigration and Nationality Act. A Form I-151, Alien Registration Receipt Card will be delivered in due course.
- ☒ You are granted additional time until March 7, 1975 to submit a brief to this office in support of your appeal.

Very truly yours,

Jean Ruggiero
(M. S.) Jean Ruggiero
Special Inquiry Aide

Attachments

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

File No.: A19 584 787 - Newark, New Jersey

January 6, 1975

IN THE MATTER OF)

BHARATKUMAR BACHUBHAI DESAI)

- Respondent -)

IN DEPORTATION PROCEEDINGS

CHARGE:

I & N Act Section 241(a)(2) nonimmigrant, remained longer.

APPLICATION:

Status as a permanent resident, Section 245 or voluntary departure.

IN BEHALF OF RESPONDENT:

Franklin S. Abrams, Esq.
8 West 40th Street
New York, N.Y. 10018

IN BEHALF OF SERVICE:

Nathan W. Gordon
Trial Attorney
Newark, New Jersey

ORAL DECISION OF IMMIGRATION JUDGE

Respondent is a 23 year old single male alien, and native and citizen of India. He last entered the United States at San Francisco, California on February 5, 1970 at which time he was admitted as a student. He had authority to remain here in that capacity until September 26, 1973 and remained thereafter without permission. He has admitted that the statements numbered one through five contained in the order are true and correct and further admits that he is illegally here as set forth in that order. It is therefore now so found.

The respondent has applied primarily for status as a permanent resident under Section 245 of the Immigration and Nationality Act. He basis his eligibility on the issuance to him of a Labor Certificate

ONLY COPY AVAILABLE

approved on May 9, 1974 by the Department of Labor, as the manager of a store which sells imported articles from India. In that application, he stated that he had been employed by Bharat Enterprises in Bombay, India as a clerk, and later manager, between January 1967 and January 1970, purchasing handcrafts and clothing for exports and became the manager and handled export documentation, custom clearances, government regulations as well as conducting the buying activities in this business which was as an exporter of handicrafts. He now frankly admits that this statement was false, and that he was never employed at anytime by Bharat Enterprises in any capacity. However, that confession which he has now freely made came about only after he was apprised of the fact that a report had been received from Bharat Enterprises denying his statements. He stated that he obtained through a friend in India this false documentation because he believed that he needed it in order to support his application for a labor clearance. He claimed to have had other related activities with his father's business during the same time when he was a student in school working in his father's enterprise part time, but apparently he realized that that experience would not qualify or satisfy the regulations, and so he chose to submit false information to support and enhance his application.

I therefore consider his Labor Certificate as worthless, invalid, and I cannot grant his application for status of a permanent resident based upon that labor certification. His application for relief under Section 245 will be denied.

He has, in the alternate, requested permission to depart voluntarily from the United States. In view of his frank admissions today, belated though they were, I might have been disposed to grant him such relief. However, I believe that I am barred by the terms of Section 101(f)(6) of the Immigration and Nationality Act in that he has given false testimony under oath before me on September 24, 1974, at which time he confirmed and repeated on direct examination his alleged experience in India. This being so, I have no alternative but to find him ineligible for voluntary departure and to direct his deportation to India, the country of his choice.

ORDER: IT IS ORDERED that respondent be deported from the United States to India on the charge contained in the Order to Show Cause.

A. I. Maltin

AARON I. MALTIN
IMMIGRATION JUDGE

UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

MATTER OF

FILE A- 19 584 787

BHARATKUMAR BACHUBHAI DESAI

IN DEPORTATION

PROCEEDINGS

- Respondent -

TRANSCRIPT OF HEARING

Before: AARON I. MALIN, Immigration Judge

Date: 9/24/74 Place: Newark, New Jersey

Transcribed by Catherine R. Earle Recorded by Gray E.T.C.

Official Interpreter No one.

Language English

APPEARANCES:

For the Service:

Nathan W. Gordon
Trial Attorney

Newark, New Jersey
Station

For the Respondent:

Franklin S. Abrams, Esq.

8 West 40th Street

New York, N.Y. 10018

1 of December 1972. Document returned.

2 IMMIGRATION JUDGE TO MR. ABRAMS:

3 Q Anything else, counsel?

4 A I have direct examination.

5 Q Go right ahead.

6 A Shall I question on voluntary departure also?

7 Q No, that's ~~document~~

8 MR. ABRAMS TO RESPONDENT:

9 Q Mr. Desai, where are you presently employed?

10 A India Phernalia in Philadelphia.

11 Q How long are you working there?

12 A I started in August '74.

13 Q And what kind of work do you do and what's your salary?

14 A My salary is \$180 a week, and I work as a store manager.

15 Q Have you ever worked as a store manager before?

16 A Yes, sir. In India, and here in -

17 Q ~~WE WOULD LIKE~~ also.

18 MR. ABRAMS:

19 I have no more questions at this time.

20 IMMIGRATION JUDGE TO MR. GORDON:

21 Mr. Gordon.

22 MR. GORDON TO RESPONDENT:

23 Q Mr. Desai, you work for India Phernalia?

24 A Yes, sir.

25 Q The Labor Certification and the applications attached to it indicate
26 that they do approximately \$65,000 business a year. How many people

1 Q How often does he come there?
2 A Every week ---- every month ---- every week or two weeks he comes
3 there.
4 IMMIGRATION JUDGE:
5 Go ahead, Mr. Gordon.
6 MR. GORDON TO RESPONDENT:
7 Q How did you learn about this job?
8 A A friend of mine come in the store.
9 Q Who was the owner? What is his name?
10 A Lalit Shah.
11 Q When did you first meet this man?
12 A O.K. now, his friend was in - we came in to - ~~see~~ each other and -
13 Q His friend was what?
14 A His friend, Mr. Patel ..., a guy named by Patel, you know, we ran
15 into each other and then we were talking and he found out that I am
16 this kind experienced in/ of business, and his friend is looking for somebody
17 who ~~can run this store~~ so that's why, you know, we meet.
18 Q I see. Did you know this man in India - Mr. Shah?
19 A No.
20 Q Did you know Mr. Patel in India?
21 A No.
22 Q You mentioned that you did export - import work in India?
23 A Yes, exporting, yes.
24 Q How long did you work at the export - import business?
25 A Started in '67, you know, as a part time clerk, and after a year
26 or two ----- after one year I become like a manager in charge of

1 ~~THESE THINGS~~-exporting things.

2 Q Did you know how to handle the foreign bills of lading?

3 A Yes.

4 Q Did you understand the custom rules of this department?

5 A Yes.

6 Q Did you study these in India?

7 A In my spare time I was reading my books and ~~WHATEVER~~ ^{I KNOW} I started as

8 a clerk, you know, taught me everything - how to conduct a business,

9 you know, who was a clearing agent.

10 Q What kind of goods do you have in this store now?

11 A What kind now?

12 Q Yuh, what do you sell? What are the goods? Indian handicrafts -

13 what does Indian handicrafts mean?

14 A O.K. It's a store of clothing, like men's and men's clothing all types,

15 and handicraft - and wooden lamps and wooden

16 screen, I mean - screen, lamps, and ~~CIGARETTE PAPERS~~

17 things like that.

18 Q Is this in any particular area of Philadelphia? This says it's on

19 a mall? Is this a shopping place?

20 A Yes, it's a shopping center, a big shopping center.

21 Q Which shopping center?

22 A Roosevelt Mall.

23 Q Roosevelt Mall on Roosevelt Boulevard?

24 A It's on Cottman Avenue.

25 Q And when you came to the United States, did you come here as a student

26 or did you come here as a visitor?

1 A No.

2 IMMIGRATION JUDGE:

3 Go ahead, Mr. Gordon.

4 MR. GORDON TO RESPONDENT:

5 Q Mr. Desai, when you came to the United States, how did you come here?

6 A I came on a student visa.

7 Q You came as a student's visa. When you applied for your Labor
8 Certification, what type of experience did you present to the Depart-
9 ment of Labor?

10 A It was a false information.

11 Q Pardon?

12 A It was a false information I furnish.

13 Q You furnished false information?

14 A Yes, sir.

15 Q False information as to what?

16 A As to what I was working like in a different place, like.

17 Q What in fact were you doing at that time?

18 A I was at my father's business like helping out, you know.

19 Q What kind of business does your father have?

20 A It's a general merchant, broker, and commission agent.

21 Q What did you specifically do there?

22 A I was helping out you know to get money -

23 Q Is this a store that your father has?

24 A Yes, it's like office and warehouse, you know.

25 Q And what did you specifically do in this office or warehouse?

26 A When a shipment comes, you know, I was checking out the invoices.

1 I would see what's inside. O.K. so then after we would send it out
2 of Bombay like ~~SOME~~ ~~company~~ ~~things~~ or things
3 like that, and then I would call the people and say such and such
4 merchandise you know - ~~with~~ ~~and~~ - just ~~GO ON~~ doing
5 things like that.

6 Q What type of work are you doing now in the United States?

7 A I'm managing a store.

8 Q What kind of a store?

9 A Garments, artifact jewelry, and handicrafts.

10 Q But you, in fact, never did this type of work in India?

11 A Not, I mean, not relating to exporting - importing. See we -

12 Q And when you applied under the labor certification you told them
13 that you worked in a nonexistent company.

14 A See why I lied/because when I went to see my lawyer - I want to
15 file ~~AND ASK WHAT IS THE REQUIREMENT~~. He says you have to
16 have at least one or two years of experience so then I ~~PUT~~ ~~EXPORT~~
17 things. So I says you know just ---- I don't ~~WORKING~~ ~~THAT~~ kind of
18 things, importing, exporting, so I said you know I lied.

19 MR. GORDON:

20 No further questions, your honor. I think the record establishes
21 itself.

22 IMMIGRATION JUDGE TO MR. ABRAMS:

23 Mr. Abrams.

24 MR. ABRAMS TO RESPONDENT:

25 Q Mr. Desai, in India when you were working for your father's business,
26 how many years did you work there?

U.S. DEPARTMENT OF LABOR
MANPOWER ADMINISTRATION
1515 Broadway
New York, N.Y. 10036

In Reply Refer: CF

ALIEN'S NAME AND OCCUPATION

Bharatkumar Desai - Mgr. Import/Export
3/31/75

Desai Brothers International, Inc.
c/o Franklin S. Abrams
Abrams & Abrams
One Penn Plaza
New York, N.Y. 10001

Date: April 25, 1975

The Department of Labor has made a determination on your application for alien employment as required by the Immigration and Nationality Act, as amended. Final action has been taken as follows:

- ☒ 1. Form MA 7-50 has been certified and is enclosed with the supporting documents. All enclosures should be submitted to the Immigration and Naturalization Service District Office for consideration of alien's application for adjustment of status or with your petition (Form I-140).
- ☐ 2. Form MA 7-50 has been certified and returned to the Immigration and Naturalization Service for consideration with either a petition or request for adjustment of status.
- ☐ 3. Form MA 7-50 has been certified and forwarded to the Consulate at which the alien has indicated he will file a visa application. The Consular Officer will inform the alien of any additional documents to be submitted and steps to be taken in order to apply for an immigrant visa.
- ☐ 4. Form MA 7-50 has not been certified and is being returned. A certification cannot be issued as required by Section 212(a)(14) of the Immigration and Nationality Act, as amended, on the basis of information available for the following reasons:
- ☐ a. Available job market information will not warrant a certification of unavailability of workers in the U.S. who are able, willing, and qualified.
- ☐ b. The employment of aliens would have an adverse effect on wages and/or working conditions of U.S. workers similarly employed.
- The wage offer of is below the prevailing rate of for this occupation in the proposed area of employment.
- Prevailing wage was determined by

Reason for Denial: (If additional space is needed, use reverse)

Sincerely,

cc: Desai Brothers International, Inc.

Edwin T. Redding
Certifying Officer

cc: State ES Agency

You may request a review of a denial of certification. A request for review of a denial may only be made in writing to the Assistant Regional Director for Manpower within 90 days of denial of certification and shall: (1) Clearly identify the particular certification determination for which review is sought; (2) set forth the particular grounds on which the request is based; and (3) include all documents which accompanied the denial of certification.

U.S. DEPARTMENT OF LABOR
MANPOWER ADMINISTRATION
MA 7-50B
REPLACES FORM ES-575B

Form Approved
Budget Bureau No. 44-R1301

APPLICATION FOR ALIEN EMPLOYMENT CERTIFICATION
JOB OFFER FOR ALIEN EMPLOYMENT

READ THIS NOTICE BEFORE COMPLETING FORMS

To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a felony punishable by \$10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Any alien, prospective employer or any person acting on behalf of such alien or employer, who knowingly makes any misrepresentation concerning the alien, or his prospective employment including such matters as wages, hours, or the occupation in which an alien will be employed, or any person who falsely represents, in the execution of this form that he is offering the alien employment as the prospective employer of such alien, will be prosecuted to the fullest extent of the law.

IMPORTANT: READ ATTACHED INSTRUCTIONS BEFORE COMPLETING THIS FORM

Print legibly in ink or use a typewriter. If you need more space to answer fully any questions on this form, use a separate sheet. Identify each answer with the number of the corresponding question. Sign and date each sheet.

IN SUPPORT OF THE APPLICATION FOR ADMISSION OF

1. NAME OF ALIEN If for temporary employment of more than one alien in same occupation, attach list of names and present addresses.
Family name in capital letters First name Middle name Maiden name

DESAI

Bharatkumar

2. PRESENT ADDRESS OF ALIEN

c/o MAIR

City and town

State & ZIP Code
or Province

Country

3. TYPE OF VISA
(If in U.S.) Under
**Deportation
Proceedings**

Apt. 1-A, 2010 Newkirk Avenue, Brooklyn, New York, USA, 11226

NOTE: Do not employ a nonimmigrant alien who cannot show authorization to work stamped or endorsed on his form I-94, Arrival and Departure Record. Contact Immigration and Naturalization Service if in doubt. An alien who works without authorization is subject to deportation and his employer is subject to denial of certification.

THE FOLLOWING INFORMATION IS SUBMITTED AS EVIDENCE OF AN OFFER OF EMPLOYMENT

4. NAME OF EMPLOYER (Full name of organization)

Desai Brothers International, Inc.

5. TELEPHONE (Area code and number)

(212) 858-1946

6. ADDRESS Number and street

City or town

County

State

ZIP Code

250 Carlton Avenue,

Brooklyn,

New York,

11205

7. ADDRESS WHERE ALIEN WILL WORK (If different from item 6)

8. SIZE OF ORGANIZATION

ANNUAL SALES OR
INCOME
est. \$70,000+

TOTAL NO. OF EM-
PLOYEES
One

9. BRIEF NONTECHNICAL DESCRIPTION OF THE NATURE OF EMPLOYER'S
BUSINESS OR ACTIVITY

Import/Export

10. NO. OF EMPLOYEES
WHO PERFORM SAME
WORK AS ALIEN

None

11. NO. OF EMPLOYEES AT
PLACE WHERE ALIEN
WILL WORK

One

12. IF SEASONAL JOB, ENTER MONTHS THAT
JOB STARTS & ENDS

Complete items 13 and 14 only if job is temporary

FROM TO

13. EXACT DATES YOU EXPECT TO EMPLOY ALIEN(S)

FROM

TO

14. NO. OF OPENINGS TO BE
FILLED BY ALIENS UNDER
THIS JOB OFFER

15. WOULD YOU HIRE A QUALIFIED U.S.
WORKER IF AVAILABLE?

☒ YES

☐ NO

16. DESCRIBE EFFORTS YOU HAVE MADE TO FILL THE JOB

Called agencies; asked around in the trade.

17. DESCRIBE HOW YOU LEARNED THAT ALIEN NAMED ABOVE WAS AVAILABLE
He is president of the corporation.

18. ALIEN NAMED ABOVE EMPLOYED BY ME

☐ CURRENTLY

DATE STARTED

☐ PREVIOUSLY

DATE LEFT (If any)

PREVIOUS CERTIFICATIONS RECEIVED (Permanent job offers only)

19. NO. CERTIFI-
CATIONS RECEIVED

One

DATE OF MOST
RECENT

1974

20. NO. ALIENS HIRED

One

- NO. STILL ON JOB

One

ENDORSEMENTS

Make no entry
in this section
for government
agency use only

CERTIFICATION

PURSUANT TO THE PROVISIONS OF SECTION 212(A) (14) OF THE IMMIGRATION
AND NATIONALITY ACT AS AMENDED I HEREBY CERTIFY THAT THERE ARE NOT
SUFFICIENT U.S. WORKERS AVAILABLE AND THE EMPLOYMENT OF THE ABOVE
WILL NOT ADVERSELY AFFECT THE WAGES AND WORKING CONDITIONS OF
WORKERS IN THE U.S. SIMILARLY EMPLOYED.

21. DATE FORMS ARE RECEIVED AS
ACCEPTABLE FOR PROCESSING

L.O.

S.O.

R.O.

N.O.

For Local ES Office Use Only
L.O. ADDRESS

22. IND. CODE

5099

23. OCC. TITLE

Manager, Import & Export

24. OCC. CODE

163.118

25. NAME OF JOB OFFERED
Import/Export Manager

26. IS THERE EITHER A LABOR DISPUTE EXISTING OR A LABOR CONTRACT BEING NEGOTIATED? ☐ YES ☒ NO

IF THE JOB IS UNIONIZED <input checked="" type="checkbox"/>	NUMBER OF LOCAL	NAME	CITY AND STATE
28. TOTAL HOURS PER WEEK BASIC 35	OVERTIME	29. RATE OF PAY (Per hour, week, etc.) BASIC \$13,000 per year	ADDITIONS TO BASIC RATE OF PAY (Commission, piece rate, etc.)

30. DESCRIBE FULLY THE JOB TO BE PERFORMED (If alien is required to live at work, form MA 7-50C must also be submitted.)

DUTIES
Will export books and cattle to Indian. Will contact customers, arrange shipment and financing. Will also import clothing and handicrafts and foods from India, contacting producers and bargaining over prices and quality.

EQUIPMENT OPERATED None	WORKING CONDITIONS Good.
-----------------------------------	------------------------------------

31. STATE IN DETAIL THE MINIMUM REQUIREMENTS FOR WORKER TO PERFORM SATISFACTORILY THE JOB DUTIES DESCRIBED ABOVE.

EDUCATION (Enter number of years)		SPECIFY COLLEGE DEGREE REQUIRED		MAJOR FIELD OF STUDY
GRADE SCHOOL 8	HIGH SCHOOL 4	COLLEGE		
TRAINING <input checked="" type="checkbox"/>	NUMBER OF YEARS OR MONTHS 2 years		TYPE OF TRAINING (Specify vocational preparation, such as apprenticeship, trade school or other training required) Business School or College	
EXPERIENCE <input checked="" type="checkbox"/>	NUMBER OF YEARS OR MONTHS IN JOB BEING OFFERED 2 years		NUMBER OF YEARS OR MONTHS IN RELATED OCCUPATION 2 years	RELATED OCCUPATION (Specify) Wholesale Business in India

32. SPECIFY ANY OTHER SPECIAL REQUIREMENTS

Should speak Hindi or Gujarati to deal with smaller producers and customers in India.

33. OCCUPATIONAL TITLE OF PERSON WHO WILL BE ALIEN'S IMMEDIATE SUPERVISOR None	34. TYPE AND DEGREE OF SUPERVISION ALIEN WILL RECEIVE General	35. NUMBER OF OTHER EMPLOYEES ALIEN WILL SUPERVISE None
--	---	---

36. HAVE YOU FULLY INFORMED ALIEN OF JOB DUTIES, RATE OF PAY, AND TERMS OF YOUR JOB OFFER? ☒ YES ☐ NO

37. DECLARATIONS

DECLARATION OF EMPLOYER: Under penalties of perjury, I declare that I have examined this application, supplements thereto, and all accompanying documents, and to the best of my knowledge and belief the information presented thereon is true, correct and complete.

SIGNATURE <i>J. K. Shah</i>	DATE SIGNED March 26, 1975
NAME (Type or print) J. K. SHAH	TITLE Pres.

DECLARATION OF AGENT OF EMPLOYER (If prepared by, or if assistance in preparation is provided by person other than employer): I declare that the contents of this application, supplements thereto, and all accompanying documents are based on all information of which I have any knowledge.

SIGNATURE <i>F. J. Abrams</i>	DATE SIGNED March 26, 1975
NAME (Type or print) ABRAMS & ABRAMS	
ATTORNEYS AT LAW	
ADDRESS (Number and Street, City, State and ZIP Code) ONE PENN PLAZA NEW YORK, N. Y. 10001	

MA-7-50A

REPLACES FORM ES-575A

APPLICATION FOR ALIEN EMPLOYMENT CERTIFICATION
STATEMENT OF QUALIFICATIONS OF ALIEN

BUDGET BUREAU NO. 44-R 1301

READ THIS NOTICE BEFORE COMPLETING FORMS

To knowingly furnish any false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another so to do is a felony punishable by \$10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Any alien, prospective employer or any person acting on behalf of such alien or employer, who knowingly makes any misrepresentation concerning the alien, or his prospective employment including such matters as wages, hours, or the occupation in which an alien will be employed, or any person who falsely represents, in the execution of this form that he is offering the alien employment as the prospective employer of such alien, will be prosecuted to the fullest extent of the law.

FOR ADVICE CONCERNING REQUIREMENTS FOR ALIEN EMPLOYMENT CERTIFICATION: If alien is in the U.S., contact nearest office of Immigration and Naturalization Service. If alien is outside U.S., contact nearest U.S. Consulate.

IMPORTANT: READ ATTACHED INSTRUCTIONS BEFORE COMPLETING THIS FORM

Print legibly in ink or use a typewriter. If you need more space to fully answer any questions on this form, use a separate sheet. Identify each answer with the number of the corresponding question. Sign and date each sheet.

1. Family name in capital letters DESAI				First name Bharatkumar		Middle name B.		Maiden name		2. ALIEN REGISTRATION NUMBER (If any)		3. TYPE OF VISA Under Deportation Proceeding							
NAME OF ALIEN DESAI				City or town c/o Malik				State and ZIP Code 11226, U.S.A.				Country		5. SEX <input checked="" type="checkbox"/> MALE <input type="checkbox"/> FEMALE		6. MARITAL STATUS <input type="checkbox"/> MARRIED <input checked="" type="checkbox"/> SINGLE			
PRESENT ADDRESS Apt. 1-A, 2010 Newkirk Avenue, Brooklyn, N.Y.				7. ALIEN'S BIRTHDATE Month, day, year Sept. 9, 1951				8. BIRTHPLACE City or town Bombay,				State or Province India				Country Indian			
10. ADDRESS IN UNITED STATES WHERE ALIEN WILL RESIDE Same as in # 4.												11. AGES OF ALIEN'S UNMARRIED CHILDREN UNDER 21 YEARS OLD None							
12. NAME & ADDRESS OF PROSPECTIVE EMPLOYER IF ALIEN HAS JOB OFFER IN U.S. Desai Brothers International, Inc. 250 Carlton Avenue, Brooklyn, New York, 11205												13. OCCUPATION IN WHICH ALIEN IS SEEKING WORK Import/Export Manager							
14. 'X' the appropriate box below and furnish the information required for the box marked																			
<input type="checkbox"/> A. ALIEN WILL APPLY FOR A VISA ABROAD AT THE AMERICAN CONSULATE IN City in foreign country Foreign country																			
<input checked="" type="checkbox"/> B. ALIEN IS IN THE UNITED STATES AND WILL APPLY FOR ADJUSTMENT OF STATUS TO THAT OF A LAWFUL PERMANENT RESIDENT IN THE OFFICE OF THE IMMIGRATION AND NATURALIZATION SERVICE AT City State New York, New York																			
15. NAMES AND ADDRESSES OF SCHOOLS, COLLEGES AND UNIVERSITIES ATTENDED Include trade or vocational training facilities																			
Elementary & High School				FIELD OF STUDY High School		FROM Month Year 1957		TO Month Year 1967		DEGREES OR CERTIFICATES RECEIVED									
Sinclair Community College Dayton, Ohio				Business		1970		1972		A.A. in Business Management									

SPECIAL QUALIFICATIONS AND SKILLS

16. ADDITIONAL QUALIFICATIONS AND SKILLS ALIEN POSSESSES AND PROFICIENCY IN THE USE OF TOOLS, MACHINES OR EQUIPMENT WHICH WOULD HELP ESTABLISH IF ALIEN MEETS REQUIREMENTS FOR OCCUPATION IN ITEM 13

LIST LICENSES (Professional, journeyman, etc.)

17. LIST DOCUMENTS ATTACHED WHICH ARE SUBMITTED AS EVIDENCE THAT ALIEN POSSESSES THE EDUCATION, TRAINING, EXPERIENCE AND ABILITIES REPRESENTED

ENDORSEMENTS

DATE REC. DOL

O.T.

Make no entry
in this section—
for government
agency use only
Apr. 1970

18. EXPERIENCE. List all jobs held during past three (3) years. Also, list any other jobs related to the occupation for which the alien is seeking certification as indicated in item 13

NAME AND ADDRESS OF EMPLOYER

Jivaj Co. - 184 Mandvi Chambers, Khoza Galli, Bombay - 9

NAME OF JOB

Wholesaler

DATE STARTED
Month Year
Jan. 1967

DATE LEFT
Month Year
Jan. 1970

KIND OF BUSINESS

Wholesalers

DESCRIBE IN DETAIL THE DUTIES PERFORMED, INCLUDING THE USE OF TOOLS, MACHINES, OR EQUIPMENT

NO. OF HOURS PER WEEK

Did buying and selling of commodities, checking merchandise, 25

helping keep books and records. We dealt in dry fruits and other commodities. I helped my father and was not on the payroll.

NAME AND ADDRESS OF EMPLOYER

India Phernalia - 2383 Cottman Avenue, Philadelphia, Pa.

NAME OF JOB

Manager

DATE STARTED
Month Year
Aug. 1974

DATE LEFT
Month Year
Sept. 1974

KIND OF BUSINESS

Indian Store

DESCRIBE IN DETAIL THE DUTIES PERFORMED, INCLUDING THE USE OF TOOLS, MACHINES, OR EQUIPMENT

NO. OF HOURS PER WEEK

Managed retail store for absentee owner.

40

NAME AND ADDRESS OF EMPLOYER

King George Ice Cream Store - 4305 13th Avenue, Brooklyn, New York

NAME OF JOB

Manager

DATE STARTED
Month Year
Jan. 1973

DATE LEFT
Month Year
Jan. 1974

KIND OF BUSINESS

Ice Cream Store

DESCRIBE IN DETAIL THE DUTIES PERFORMED, INCLUDING THE USE OF TOOLS, MACHINES, OR EQUIPMENT

NO. OF HOURS PER WEEK

Overall control of entire operation of the store.

40

19. List parties who are or will be recipients of the amounts indicated, from or on behalf of alien, for placement and/or referral services provided in connection with this application for alien employment certification.

NAMES (Type or print)	ADDRESSES (No. & Street, City, State & ZIP Code)	AMOUNTS
		\$
		\$
		\$

20. DECLARATIONS

DECLARATION OF ALIEN: Under penalties of perjury, I declare that I have examined this application, supplements thereto, and accompanying documents, and to the best of my knowledge and belief, the information presented thereon is true, correct, and complete.

SIGNATURE

x Bharat Desai

DATE SIGNED

March 26, 1975

DECLARATION OF AGENT OF ALIEN (If prepared by, or if assistance in preparation is provided by person other than alien): I declare that the contents of this application, supplements thereto, and all accompanying documents are based on all information of which I have any knowledge.

SIGNATURE

J S Abrams

DATE SIGNED

March 26, 1975

NAME (Type or print)

ABRAMS & ABRAMS

ATTORNEYS AT LAW

ONE PENN PLAZA

NEW YORK, N. Y. 10001

ADDRESS (No. & Street, City, State and ZIP Code)

(
(In the Matter of)
()
(BHARATKUMAR BACHUBHAI DESAI)
()
(File No. A19 584 787)
()

BRIEF ON APPEAL

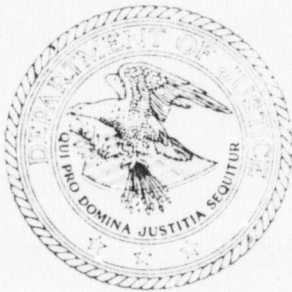
The decision of the Immigration Judge is incorrect. He states that "I might have been disposed to grant him such relief [voluntary departure]" but that the alien had given false testimony under oath and therefore was barred by Section 101 (f) (6) from a grant of voluntary departure.

A careful reading of the entire transcript indicates that the applicant indicates that the alien never did swear falsely during the hearing. At Page 5, Lines 15 to 16, the alien indicated that he had worked as a Store Manager in India. At Page 8, Line 22 to Page 9, Line 9, he indicated that he had done exporting and that he had started as a part-time clerk and had become like a manager in charge of exporting things. All of this is consistent with his later testimony at Page 21 to 22 that he was, in fact, employed in his father's business. Mr. Desai nowhere stated under oath that he was employed by Bharat Enterprises.

The Immigration Judge therefore, in denying voluntary departure solely because of the alien's alleged false testimony, was incorrect. The case should be remanded to the Immigration Judge, since he stated in his decision that he would have granted voluntary departure but for the alleged false testimony. Since the testimony was not false, the Immigration Judge should have granted voluntary departure.

Respectfully submitted,

ABRAMS & ABRAMS
Franklin S. Abrams
One Penn Plaza
New York, N. Y. 10001



United States Department of Justice

Board of Immigration Appeals

Washington, D.C. 20530

File: A19 584 787 - Newark

APR 24 1975

In re: BHARATKUMAR BACHUBHAI DESAI

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT:

Franklin S. Abrams, Esquire
One Penn Plaza
New York, New York 10001

ON BEHALF OF I&N SERVICE:

Nathan W. Gordon
Trial Attorney

CHARGES:

Order: Section 241(a)(2), I&N Act (8 U.S.C. 1251
(a)(2)) - Nonimmigrant remained longer

APPLICATION: Status as a permanent resident, or voluntary
departure

ORDER:

PER CURIAM. The decision of the immigration judge is
affirmed. The appeal accordingly is dismissed.

Chairman

MOTION TO REOPEN

()
(In the Matter of)
(Bharatkumar Desai)
(File No. A19 584 787)
()

Motion is hereby made to reopen the deportation hearing of Bharatkumar Desai to enable him to apply for adjustment of status to that of a permanent resident.

Mr. Desai's previous application was denied on the ground that his Labor Certification was invalid because his experience was not true. Mr. Desai's new Labor Certification, attached hereto, is based on his true experience and his application should now be reconsidered based on the additional information now available.

Respectfully submitted,

Dated,
May 2nd, 1975

ABRAMS & ABRAMS,
Attorneys at Law
1 Penn Plaza
New York, NY 10001

June 17, 1975

Immigration Service
970 Broad Street
Newark, New Jersey

Re: Bharatkumar B. Desai
A19 584 787/SIO

Gentlemen:

In connection with our Motion to Reopen the deportation proceedings of Mr. Desai, we would like to enclose two letters from Jivraj Company concerning Mr. Desai's work in India. In addition, we would like to enclose the income tax statement of his father showing his business income from commissions.

Yours very yours,

ABRAMS & ABRAMS

FSA:ml
Encls.

Telephone : 325629

Telegram :

JIVRAJ COMPANY.

EXPORTERS & IMPORTERS

184, SAMUEL STREET,
MANDVI CHAMBERS,
BOMBAY-9.

Ref. No. _____

Dated 5 - 6 - 1975

TO WHOM IT MAY CONCERN.
=====

I am writing this letter on behalf of my son Bharatkumar Desai.

Bharatkumar worked with me from January 1967 to January 1970
working about twenty-five hours per week.

This company engages in buying and selling commodities including
dry-fruits.

My son checked incoming merchandises and helped keep the books
and records. Gradually he learned how to run a wholesale business
and became quite a big help to me. Naturally, as he was my son,
I did not put him on the official payroll, but I do swear that
all the above information is true.

Yours very truly,

राजराज कुमरदास देसाई

(BHARATKUMAR DESAI).

Telephone : 325629

Telegram :

JIVRAJ COMPANY.

EXPORTERS & IMPORTERS

184, SAMUEL STREET,
MANDVI CHAMBERS,
BOMBAY-9,

Ref. No. _____

Dated 5 - 6 - 1975

TO WHOM IT MAY CONCERN.

This is to certify that I am the owner of the above listed company. This company engages in buying and selling of commodities like spices, dry-fruits, etc, on wholesale basis. The company serves as its office, and warehouse at 181 Mandvi chambers, Khoza Gali, Bombay-9, (India).

Mr. Bachubhai Desai has been our broker for a long time. He works as a commission agent. Mr. Bachubhai does buying and selling of the merchandises for commission plus bonus only.

During the period of January 1967 to January 1970 Mr. Bharatkumar Desai son of Mr. Bachubhai Desai used to work with his father. He used to come part-time, about twenty-five hours per week as he was attending schools part-time. His son was helping him in all phases of buying and selling activities. Other helpings were checking of incoming and outgoing goods, negotiating on quality and price, keeping logs and records, inquiries for over-short of orders, and payments, etc, etc.

I vouch for Mr. Bharatkumar Desai that he was very good worker and he really helped his father satisfactorily. During the said period he gained considerable knowledge and experience. I can guarantee that Mr. Bharatkumar is knowledgeable enough to do jobs getting done independently.

Yours very truly,
FOR JIVRAJ COMPANY.

K. S. Desai
Prop.
(KARMA LI KERAWALA).

Property income as declared
as assessed

Rs. 213

Interest

Rs. 10662

Rs. 874

Total income

Rs. 11749

Issue D.N.

default

388-
448140 P

Shew cause notice for

17.7.71
(A. M. MOBAK)
7th Income-tax Officer,
B-III Ward, Bombay.

1000.

INCOME-TAX DEPARTMENT

No. B-III/60-B(7)/68-69

District -

1968-69

1. Year of assessment.

2. Name of assessee (with complete address).

Shri Bachubhai Dulbhadar,
236-38, Samuel Street,
Bombay.

3. Status.*

Individual/Married.

4. Whether—

Resident.

Resident but not ordinarily resident.

Non-resident.

R.A.O.H.

5. Method of accounting.

6. Accounting periods (to be shown
separately for source of income).

B.Y. 2023

7. Section and sub-section under which the
assessment is made.

143(3)

ASSESSMENT ORDER

The assessee has filed a return of income showing a total income of
Rs. 5,083/-, which is accepted.

....2

*Whether individual, Hindu undivided family, company, local authority, registered or unregistered
firm, association or persons or body of individuals.

MGIPTC-79-1 IT-GIPTC-(C-41)-16-11-67-4,000,000.

33

Total income is computed as under:-

Business income

Salut & Commission

Rs. 3,700

Other sources

Interest

Rs. 1,551

Total income

....

Rs. 5,251

Rs. 5,251

Assessed accordingly. Issue notice of demand.

(G. R. P. W. E. A. R.) 11-9-68
7th Income-tax Officer,
B-III Ward, Bombay.

78

34

INCOME-TAX DEPARTMENT

No. B-III/60-B(7)/68-69

District

1. Year of assessment. : 1967-68
2. Name of assessee (with complete address). : Shri Babubhai Durlabhadas,
236/38, Samuel St.,
Bombay.
3. Status.* : Individual/Married
4. Whether—
Resident.
Resident but not ordinarily resident. : R.&O.P.
Non-resident.
5. Method of accounting. : ...
6. Accounting periods (to be shown
separately for source of income). : S.Y. 2022
7. Section and sub-section under which the
assessment is made. : 143(3)

ASSESSMENT ORDER

Return income is filed showing a total income of Rs. 5,251/- on 12-7-67,
under sec. 143(1), the same is accepted.

.....2

*Whether individual, Hindu undivided family, company, local authority, registered or unregistered
firm, association or persons or body of individuals.
M/GIPTC-79-4 IT-GIPTC-(C-44)-16-11-67-4,000,000.

Total income is computed as under:-

Business income

Rs. 4,800

Other Sources

Interest income

Rs. 283

Total Income

Rs. 5,083

Assessed accordingly. Issue notice of demand.

(E.C. JOSEPH)

7th Income-tax Officer,
B-III Ward, Bombay.

vs

36

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE

20 West Broadway
New York, New York 10007

PLEASE REFER TO THIS FILE NO.

June 30, 1975

A19 584 787 DB/CL

Bharatkimar Bachubhal Desai
2010 Newkirk Avenue, Apt. 1-A
Brooklyn, New York 11226

Dear Sir:

This is a warning. Please read carefully.


It has been ordered that you be deported to INDIA.
You will be informed when departure arrangements are complete. If needful, we will assist you as much as possible in arranging your personal affairs for departure.

Should you wish to return to the United States you must write this office or the American Consular Office nearest your residence abroad as to how to obtain permission to return after deportation. By law (Title 8 of United States Code, Section 1326) any deported person who returns without permission is guilty of a felony. If convicted he may be punished by imprisonment of not more than two years and/or a fine of not more than \$1,000.00.

Please keep this letter and refer to the above file number when writing to this office.

cc: Abrams & Abrams, Esqs.
One Penn Plaza
New York, New York 10001

Very truly yours,


HAROLD J. GRACE
ASSISTANT DISTRICT DIRECTOR
FOR DEPORTATION

Advertencia importante. Lea cuidadosamente este aviso.

Se ha ordenado deportarlo a _____.
Se le informará una vez finalizados los arreglos para su salida. Si fuera necesario, le prestaremos la mayor ayuda posible para arreglar sus asuntos personales antes de su salida.

Si usted deseara regresar a los Estados Unidos, debe escribir a esta oficina o al Consulado de los Estados Unidos más cercano a su residencia en el exterior con el fin de informarse sobre la forma de conseguir permiso para regresar después de haber sido deportado. Por ley (Título 8 del Código de los Estados Unidos, Sección 1326), toda persona deportada que regrese a los Estados Unidos sin permiso incurre en un delito mayor. De ser declarado culpable, puede recibir una pena de prisión no mayor de dos años y/o una multa que no exceda de 1.000 dólares.

Sírvase conservar esta carta y haga referencia al número de registro arriba indicado al escribir a esta oficina.

()
(In the Matter of)
()
(Bharatkumar Desai))
()
(A19 584 787)
()

BRIEF FOR RESPONDENT
MOTION TO REOPEN

THE proof of alien's experience was sent to the Immigration Service in Newark, New Jersey on June 17, 1975.. (See copy attached).

THE business is located at 250 Carlton Avenue, and the case should not be pre-judged on the basis of the address.

THE identity of the president of the corporation is not relevant to a determination of whether the company is making Mr. Desai a valid offer of employment.

IN any case, the inconsistency between items 17 and 37, of Form MA7-50B, is a clerical error.

THESE questions should be raised at a re-opened hearing, and not in briefs.

Respectfully submitted,

ABRAMS & ABRAMS,
Attorneys at Law
1 Penn Plaza
New York, New York
10001

Dated July 2, 1975



United States Department of Justice

Board of Immigration Appeals

Washington, D.C. 20530

JUL 24 1975

File: A19 584 787 - Newark

In re: BHARATKUMAR BACHUBHAI DESAI

IN DEPORTATION PROCEEDINGS

MOTION

ON BEHALF OF RESPONDENT: Franklin S. Abrams, Esq.
One Penn Plaza
New York, N. Y. 10001

CHARGE:

ORDER: Section 241(a)(2), I&N Act (8 U.S.C. 1251
(a)(2)) - Nonimmigrant, remained
longer than permitted

APPLICATION: Stay of deportation; reopening to apply
for adjustment of status under section
245 of the Immigration and Nationality
Act

On April 24, 1975 we dismissed the respondent's appeal from an order of an immigration judge finding him deportable as charged, denying his application for adjustment of status under section 245 of the Immigration and Nationality Act, and directing his deportation to India. Respondent now moves that we reopen proceedings to permit him to renew his section 245 application on the basis of a new labor certification. In conjunction with the motion, counsel has requested that the respondent's deportation be stayed. The stay of deportation and the motion to reopen will be denied. The request for oral argument will also be denied.

A19 584 787

On the basis of our review of the entire record, we cannot find that further proceedings in which the respondent can reapply for discretionary relief are warranted. Although the respondent may now have a valid labor certification, the circumstances of this case are such that this alone does not make it a meritorious one for reopening, and such application will therefore be denied, 8 C.F.R. 3.2. The following order will be entered.

ORDER: The respondent's applications for a stay of deportation and reopening of proceedings are hereby denied. Oral argument is denied.

Acting Chairman